

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

KEVIN MOITOSO, *et al.*

Plaintiffs,

v.

FMR LLC, *et al.*,

Defendants.

1:18-CV-12122-WGY

ORAL ARGUMENT REQUESTED

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Pursuant to Fed. R. Civ. P. 56 and Local Rule 56.1, Defendants FMR LLC, the FMR LLC Funded Benefits Investment Committee, the FMR LLC Retirement Committee, Fidelity Management & Research Company, FMR Co., Inc., and Fidelity Investments Institutional Operations Company, Inc. (together, "Defendants") hereby move for summary judgment in their favor on all counts of the Fourth Amended Complaint on the ground that the undisputed facts show that Defendants are entitled to judgment thereon as a matter of law.

The grounds for this Motion are set forth in the accompanying Memorandum of Law. This Motion is also supported by (i) Defendants' Statement of Undisputed Material Facts; and (ii) the supporting declaration of David Rosenberg, filed herewith.

REQUEST FOR ORAL ARGUMENT

Defendants believe that oral argument will assist the Court in the resolution of this motion. Accordingly, pursuant to L.R. 7.1(d), Defendants respectfully request that oral argument be heard on this motion.

LOCAL RULE 7.1(a)(2) CERTIFICATION

Counsel for Defendants hereby certify that they have conferred with Plaintiffs'

Counsel regarding the relief requested herein. Plaintiffs oppose the relief requested.

Dated: September 6, 2019
Boston, MA

Respectfully submitted,

/s/ John J. Falvey, Jr.

John J. Falvey, Jr. (BBO# 542674)
Alison V. Douglass (BBO# 646861)
Dave Rosenberg (BBO# 679434)
Benjamin S. Reilly (BBO# 693742)
GOODWIN PROCTER LLP
100 Northern Avenue
Boston, MA 02210
Tel: (617) 570-1000
Fax: (617) 523-1231
jfalvey@goodwinlaw.com
adouglass@goodwinlaw.com
drosenberg@goodwinlaw.com
breilly@goodwinlaw.com

William M. Jay
(*pro hac vice* application pending)
GOODWIN PROCTER LLP
901 New York Avenue, N.W.
Washington, DC 20001
Tel: (202) 346-4000
Fax: (202) 346-4444
wjay@goodwinlaw.com

Attorneys for Defendants

CERTIFICATE OF SERVICE

I, John J. Falvey, Jr., hereby certify that the foregoing document is being filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing on September 6, 2019. The foregoing document will be available for viewing and downloading from the ECF system.

/s/ John J. Falvey, Jr.
John J. Falvey, Jr.